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**PATENT APPLICATION
DOCKET NO. 10007792-1**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S): Travis J. Parry

SERIAL NO.: 10/040,553

GROUP ART UNIT: 2663

FILED: January 7, 2002

EXAMINER: Liou, Jonathan

SUBJECT: METHODS AND APPARATUS FOR SELECTING A WIRELESS LOCAL
AREA NETWORK PORT AND ESTABLISHING COMMUNICATION
THEREWITH

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APPELLANTS/APPLICANTS' OPENING BRIEF ON APPEAL

1. REAL PARTY IN INTEREST.

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holding, LLC.

2. RELATED APPEALS AND INTERFERENCES.

There are no other appeals or interferences known to Appellants, Appellants' legal representative or the Assignee which will affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS.

Claims 1-20 are pending and stand rejected. All pending claims are appealed.

4. STATUS OF AMENDMENTS.

No amendments have been filed after the final action was entered. All previous amendments have been entered.

5. SUMMARY OF CLAIMED SUBJECT MATTER.

Claim 1 recites a method for establishing wireless communication between a computer and a local area network that includes receiving a signal broadcast by at least

one wireless port of the local area network. See, e.g., Specification, paragraph [0029]. The signal is evaluated to determine a connection protocol type of the at least one wireless port. See, e.g., Specification, paragraphs [0035] and [0043]. A connection protocol is initiated based on the connection protocol type of the at least one wireless port. See, e.g., Specification, paragraphs [0035] and [0043].

Claim 10 recites a method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network that includes receiving at least one signal. See, e.g., Specification, paragraph [0029]. It is determined whether the at least one signal is being broadcast by a wireless port of the local area network. . See, e.g., Specification, paragraph [0030]. The at least one signal is evaluated to determine a connection protocol type of the wireless port by which the at least one signal is being broadcast. See, e.g., Specification, paragraphs [0035] and [0043]. If the at least one signal is being broadcast by a wireless port of the local area network, a connection protocol that is compatible with the wireless port is initiated. See, e.g., Specification, paragraphs [0034], [0035] and [0043].

Claim 15 recites a workstation configured to select a connection protocol for establishing wireless communication with a local area network. See, e.g., Specification, paragraph [0024]. The workstation includes at least one processor, at least one wireless network access device in communication with said at least one processor; and at least one storage medium. See, e.g., Specification, paragraph [0024]. The storage medium is configured to communicate with the at least one processor. See, e.g., Specification, paragraph [0024]. The storage medium comprises instructions stored in data format for implementing a method that includes causing the at least one wireless network access device to receive at least one signal being broadcast by a wireless port of the local area network and to communicate the at least one signal to the at least one processor in a format recognizable by the at least one processor. See, e.g., Specification, paragraph

[0029]. The at least one processor is enabled to evaluate the at least one signal to identify a connection protocol type of the wireless port from which the at least one signal was broadcast. See, e.g., Specification, paragraphs [0035] and [0043]. The at least one processor is instructed to select a connection protocol appropriate for establishing communication with the wireless port based on the connection protocol type thereof. See, e.g., Specification, paragraphs [0035] and [0043].

6. GROUNDS FOR REJECTION TO BE REVIEWED.

A. Claims 1-3, 5-12, and 14-20 were rejected under Section 103 as being unpatentable over US Pub 2002/0007407 to Klein.

B. Claims 4 and 13 were rejected under Section 103 as being unpatentable over US Pub 2002/0007407 to Klein in view of USPN 6,582,700 issued to Pinard.

7. ARGUMENT.

A. Ground For Rejection A – Claims 1-3, 5-12, and 14-20 were improperly rejected under Section 103 as being unpatentable over US Pub 2002/0007407 to Klein.

Claim 1 directed to a method for establishing wireless communication between a computer and a local area network and recites the following:

1. receiving a signal broadcast by at least one wireless port of the local area network;
2. evaluating said signal to determine a connection protocol type of said at least one wireless port; and

3. initiating a connection protocol based on said connection protocol type of said at least one wireless port.

In comparison, Klein teaches a system in which a device repeatedly and iteratively attempts to make a wireless connection according to a particular one of a set of profiles until a given profile works. See Klein, paragraph [0045] and Fig. 5A. The Examiner mistakenly asserts that

Examiner give the reasonable broad interpretation of claim and believe Klein obviously teach the recited limitation "evaluating said signal to determine a connection protocol type of said at least one wireless port." By considering Klein teach iterative process to connect with a network, it would require evaluating signal to determine a connection protocol type by comparing profile in order to know whether it would be suitable for connecting. When the profile is matching with protocol type, the connection protocol type is determined. By iterative process, it has to go through at least one wireless port. Therefore, although Klein do not specifically teach [evaluating] a connection protocol type of said at least one wireless port, it would have been obvious for one who has ordinary skill in the art at the time to evaluate signal to determine a connection protocol type based on wireless protocol.

The Examiner is improperly equating evaluating said signal to determine a connection protocol type of said at least one wireless port with Klein's teaching of repeatedly selecting a subsequent profile and attempting to connect to a wireless network based on profile until a connection is successfully made. Claim 1 recites evaluating a signal to determine a connection protocol type and then initiating a connection protocol based on that identified connection protocol type. Klein's iterative process eliminates any possibility of evaluating a signal and then initiating a connection protocol based on that evaluation. Klein teaches initiating a connection protocol based on a selected one of a set of profiles with no evaluation of any signal. If that connection does not work, a connection protocol is again initiated but based on another one of the profiles.

Under Klein's teachings, there is never even a suggestion that a wireless signal be evaluated to determine a connection protocol type and then initiating a connection protocol according to that identified type. Klein simply teaches blindly initiating a connection protocol based on a profile. Consequently, Klein fails to teach or suggest (a) evaluating said signal to determine a connection protocol type of said at least one wireless port or (b) initiating a connection protocol based on said connection protocol type of said at least one wireless port.

For at least these reasons, Claim 1 is patentable over Klein as are Claims 2-9 which depend from Claim 1.

Claim 10 is directed to a method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network and recites the following:

1. receiving at least one signal;
2. determining whether said at least one signal is being broadcast by a wireless port of the local area network;
3. evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast; and
4. if said at least one signal is being broadcast by a wireless port of the local area network, initiating a connection protocol that is compatible with said wireless port.

As with Claim 1 above, Klein fails to teach or suggest (a) evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast or (b) initiating a connection protocol that is compatible with said wireless port. For at least the same reasons Claim 1 is patentable over Klein, so are Claim 10 and Claims 11-14 which depend from Claim 10.

Claim 15 is directed to a system that includes at least one storage medium that comprising instructions stored in data format for implementing the method of Claim 1. For at least the same reasons Claim 1 is patentable over Klein, so are Claim 15 and Claims 16-20 which depend from Claim 15.

B. Ground For Rejection B – Claims 4 and 13 were improperly rejected under Section 103 as being unpatentable over US Pub 2002/0007407 to Klein in view of USPN 6,582,700 issued to Pinard.

Claim 4 depends from Claim 1 while Claim 13 depends from Claim 10. For at least the same reasons Claims 1 and 10 are patentable, so are Claims 4 and 13.

For at least the reasons set forth above, the rejections of Claims 1-20 are improper as the Examiner has failed to establish a prima facie case of obviousness under 35 USC §103.

Respectfully submitted,
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APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1. (Previously presented) A method for establishing wireless communication between a computer and a local area network, comprising:
 - receiving a signal broadcast by at least one wireless port of the local area network;
 - evaluating said signal to determine a connection protocol type of said at least one wireless port; and
 - initiating a connection protocol based on said connection protocol type of said at least one wireless port.
2. (Original) The method of claim 1, further comprising:
 - receiving signals broadcast by a plurality of wireless ports of the local area network; and
 - selecting one of said signals.
3. (Original) The method of claim 2, wherein said evaluating said signal comprises evaluating said selected signal.
4. (Original) The method of claim 2, wherein said selecting comprises selecting one of said signals based on at least one of a strength and a clarity thereof.
5. (Original) The method of claim 1, further comprising:
 - attempting to establish a connection between the computer and said at least one wireless port by way of said connection protocol.
6. (Original) The method of claim 5, further comprising:
 - providing the local area network with at least one security identifier upon completion of said establishing said connection.
7. (Original) The method of claim 5, further comprising:
 - receiving another signal from another wireless port of the local area network;

evaluating said another signal to determine a type of said another wireless port; initiating a connection protocol based on said type of said another wireless port; and attempting to establish a connection between the computer and said another wireless port by way of said connection protocol when said attempting to establish said connection between the computer and said at least one wireless port is not completed.

8. (Original) The method of claim 7, wherein said receiving said another signal comprises moving the computer to another location.

9. (Original) The method of claim 5, further comprising:
selecting another local area network with which to connect the computer when said connection between the computer and said at least one wireless port is not established using said connection protocol.

10. (Previously presented) A method for selecting a connection protocol to be used to wirelessly connect a computer to a local area network, comprising:
receiving at least one signal;
determining whether said at least one signal is being broadcast by a wireless port of the local area network;
evaluating said at least one signal to determine a connection protocol type of said wireless port by which said at least one signal is being broadcast; and
if said at least one signal is being broadcast by a wireless port of the local area network, initiating a connection protocol that is compatible with said wireless port.

11. (Original) The method of claim 10, wherein said determining comprises determining that a plurality of received signals are being broadcast by wireless ports of the local area network.

12. (Original) The method of claim 11, further comprising:
selecting one of said plurality of received signals.

13. (Original) The method of claim 12, wherein said selecting comprises: evaluating at least one of a strength and a clarity of each of said plurality of received signals.

14. (Original) The method of claim 12, wherein said initiating comprises attempting to establish communication with a wireless port by which said selected signal is being broadcast.

15. (Previously presented) A workstation configured to select a connection protocol for establishing wireless communication with a local area network, comprising:
at least one processor;
at least one wireless network access device in communication with said at least one processor; and
at least one storage medium configured to communicate with said at least one processor, said at least one storage medium comprising instructions stored in data format for:

causing said at least one wireless network access device to receive at least one signal being broadcast by a wireless port of the local area network and to communicate said at least one signal to said at least one processor in a format recognizable by said at least one processor;

enabling said at least one processor to evaluate said at least one signal to identify a connection protocol type of said wireless port from which said at least one signal was broadcast; and

instructing said at least one processor to select a connection protocol appropriate for establishing communication with said wireless port based on said connection protocol type thereof.

16. (Original) The workstation of claim 15, wherein said at least one storage medium further includes instructions for:

causing said at least one processor to instruct said at least one wireless network access device to initiate said connection protocol; and if communication is established between said at least one wireless network access device and said wireless port, causing said at least one processor to communicate at least one security identifier to the local area network.

17. (Original) The workstation of claim 16, wherein said instructions cause said at least one processor to automatically communicate said at least one security identifier to the local area network.

18.(Original) The workstation of claim 16, wherein said instructions cause said at least one processor to query a user to enter said at least one security identifier through an input device of the workstation prior to causing said at least one processor to communicate said at least one security identifier to the local area network.

19. (Original) The workstation of claim 15, wherein said at least one storage medium further includes instructions for:

enabling said at least one processor to identify at least one signal that was broadcast by a wireless port of the local area network from a plurality of signals received by said at least one wireless network access device.

20. (Original) The workstation of claim 19, wherein said at least one storage medium further includes instructions for:

causing said at least one processor to select a single signal from a plurality of signals that were broadcast by wireless ports of the local area network.

Evidence Appendix

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

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Related Proceedings Appendix

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.